

Message Text

UNCLASSIFIED

PAGE 01 EC BRU 04369 01 OF 02 161120Z

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UNCLAS SECTION 1 OF 2 EC BRUSSELS 4369

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SUBJECT: EC COMMISSION'S COMMENTS ON THE US INTERNATIONAL TRADE
COMMISSION'S DRAFT REPORT ON THE CONCEPTS AND PRIN-
CIPLES OF AN INTERNATIONAL COMMODITY CODE

1. BEGIN SUMMARY: EC COMMISSION OFFICIALS HAVE REQUESTED THAT WE
TRANSMIT THROUGH THE DEPARTMENT TO THE US INTERNATIONAL TRADE
COMMISSION (ITC) THEIR COMMENTS ON THE ITC'S DRAFT REPORT ON AN INTER-

NATIONAL COMMODITY CODE. THE COMMENTS SHOULD BE IN THE HANDS OF THE
ITC NOT LATER THAN MAY 19. THE AIDE MEMOIRE REQUESTS THAT IN PREPAR-
ING ITS FINAL REPORT THE ITC TAKE INTO GREATER ACCOUNT THE WORK
ALREADY DONE BY THE CUSTOMS COOPERATION COUNCIL. END SUMMARY.

2. ON MAY 15 RAYMOND PHAN VAN PHI, COMMISSION DIRECTOR IN CHARGE OF
GATT AFFAIRS, AND HENRY CHUMAS, THE COMMISSION'S CHIEF ADVISER ON
TARIFFS IN THE ADMINISTRATION OF THE CUSTOMS UNION, PRESENTED AN
AIDE MEMOIRE TO THE MISSION REQUESTING THAT IT BE TRANSMITTED TO THE
US INTERNATIONAL TRADE COMMISSION. THEY REFERRED TO THE ITC DRAFT
REPORT (332-73) OF APRIL 24, 1975 WHICH SOLICITED COMMENTS BY
MAY 19 FROM INTERESTED PARTIES PRIOR TO THE ITC'S PREPARATION
OF A FINAL REPORT FOR THE PRESIDENT AND CONGRESS REQUIRED BY
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PAGE 02 EC BRU 04369 01 OF 02 161120Z

JUNE 1 UNDER THE TERMS OF THE TRADE ACT. THE ITC REPORT IS

ENTITLED "THE CONCEPTS AND PRINCIPLES WHICH SHOULD UNDERLIE THE FORMULATION OF AN INTERNATIONAL COMMODITY CODE."

3. PHAN VAN PHI AND CHUMAS SAID THAT THE ITC'S DRAFT REPORT HAD NOT REACHED THEM UNTIL MAY 13 BUT THAT THEY FELT IT IMPORTANT THAT THE COMMISSION GIVE COMMENTS IN TIME. FOR THIS REASON THEY ASKED US TO FORWARD THE AIDE MEMOIRE BY CABLE. THEY WILL FORWARD A SIGNED ORIGINAL FOR LATER FORMAL PRESENTATION BY THE EC WASHINGTON DELEGATION.

4. IN PRESENTING THE AIDE MEMOIRE, PHAN VA PHI AND CHUMAS NOTED THAT THE CUSTOMS COOPERATION COUNCIL (CCC) HAS BEEN WORKING ON THE PREPARATION OF AN INTERNATIONAL COMMODITY NOMENCLATURE SINCE SEPTEMBER 1970, AND THAT THE UNITED STATES HAS PARTICIPATED IN THIS WORK. THEY SAID THAT THE ITC REPORT, WHILE ACKNOWLEDGING THAT THIS WORK HAS GONE ON, FAILED TO TAKE MUCH ACCOUNT OF IT. THEY ARGUED THAT THE ONLY CHANCE OF INTERNATIONAL ACCEPTANCE OF A COMMODITY NOMENCLATURE LAY IN WORKING THROUGH THE CCC AND PERHAPS IMPROVING OR MODERNIZING ITS WORK, BUT THAT AN INDEPENDENT US EFFORT TO START AGAIN FROM SCRATCH WOULD BE UNLIKELY TO FIND MUCH INTERNATIONAL SUPPORT, AND WOULD UNDERMINE THE CHANCE FOR INTERNATIONAL ACCEPTANCE OF ANY SUCH CODE.

5. BECAUSE OF THE SHORTAGE OF TIME, THE COMMISSION HAS BEEN UNABLE TO DISCUSS ITS AIDE MEMOIRE WITH THE MEMBER STATES, BUT THE COMMISSION OFFICIALS BELIEVE THAT THE AIDE MEMOIRE REFLECTS THEIR CURRENT THINKING. FOLLOWING IS THE TEXT OF THE AIDE MEMOIRE: BEGIN TEXT:

1. THE COMMISSION OF THE EUROPEAN COMMUNITIES HAS RECEIVED THE DRAFT REPORT OF THE US INTERNATIONAL TRADE COMMISSION ON THE CONCEPTS AND PRINCIPLES WHICH SHOULD UNDERLIE THE FORMULATION OF AN INTERNATIONAL COMMODITY CODE. THE COMMISSION WELCOMES THE OPPORTUNITY TO COMMENT ON THE DRAFT BEFORE IT IS FINALIZED BUT BECAUSE OF DELAY IN RECEIPT OF THE DRAFT DOCUMENT AND THE EARLY DEADLINE FOR THE SUBMISSION OF COMMENTS IT IS NOT IN A POSITION TO GIVE A CONSIDERED AND DETAILED APPRAISAL OF THE REPORT. THE COMMISSION CONSIDERS IT IMPORTANT, HOWEVER, TO MAKE A NUMBER OF COMMENTS ON UNCLASSIFIED

UNCLASSIFIED

PAGE 03 EC BRU 04369 01 OF 02 161120Z

CERTAIN FUNDAMENTAL POINTS.

2. THE COMMISSION IS DISMAYED THAT SUCH SLIGHT ACKNOWLEDGEMENT IS GIVEN IN THE DRAFT TO THE WORK OF THE CUSTOMS COOPERATION COUNCIL OVER THE PAST 5 YEARS ON THE DEVELOPMENT OF A HARMONIZED COMMODITY DESCRIPTION AND CODING SYSTEM FOR USE IN INTERNATIONAL TRADE. ALTHOUGH THE DRAFT IS BY NO MEANS CLEAR ON THE POINT, BY IMPLICATION IT APPEARS TO

REJECT THE CCC'S HARMONIZED COMMODITY CODE AND TO ADVOCATE A COMPLETELY FRESH START. THE COMMISSION DOES NOT BELIEVE THAT THE GOVERNMENT OF THE UNITED STATES OF AMERICA WOULD WISH TO MAKE SUCH A PROPOSITION IN INTERNATIONAL CIRCLES AND SUGGESTS THAT THE DRAFT REPORT SHOULD BE MODIFIED TO AVOID ANY SUCH IMPRESSION.

3. THE HARMONIZED COMMODITY DESCRIPTION AND CODING SYSTEM OF THE CUSTOMS COOPERATION COUNCIL (CCC) HAS AS ITS BASE THE BRUSSELS TARIFF NOMENCLATURE (BTN). OTHER POSSIBLE ALTERNATIVES, AND INDEED THE POSSIBILITY OF MAKING A COMPLETELY FRESH START, WERE CONSIDERED BY THE CCC'S COMMODITY CODING STUDY GROUP (THE PREDECESSOR OF THE HARMONIZED SYSTEM COMMITTEE) AT THE VERY OUTSET OF ITS WORK IN 1970/71. IT CAME TO THE CONCLUSION THAT ALTHOUGH THE BTN WAS NOT PERFECT BASIS FOR THE DEVELOPMENT OF AN INTERNATIONAL TRADE COMMODITY CODE THERE WAS NO REALISTIC ALTERNATIVE STARTING POINT SINCE THE BTN WAS AT THE TIME USED BY WELL OVER 100 COUNTRIES AS THE BASIS FOR THEIR CUSTOMS TARIFFS AND TRADE STATISTICS NOMENCLATURES, WAS DIRECTLY CORRELATED ON A ONE-FOR-ONE BASIS WITH THE UNITED NATIONS STANDARD INTERNATIONAL TRADE CLASSIFICATION (SITC) AND WAS ALSO USED BY NUMEROUS INTERNATIONAL CARRIERS AS A BASIS FOR THEIR TARIFFS. THE UNITED STATES GOVERNMENT WAS A FULL MEMBER OF THAT STUDY GROUP AND SHARES THE RESPONSIBILITY FOR THE DECISION TO DEVELOP THE HARMONIZED SYSTEM FROM THE BTN.

4. IT IS UNDERSTOOD THAT THE NUMBER OF COUNTRIES NOW USING THE BTN NOW STANDS AT 132. AS WILL BE SEEN FROM THE ANNEXED LIST, BRACKETS OMITTED FROM THIS CABLE END BRACKETS APART FROM THE 'EASTERN BLOC' AND INDIA, WHICH IS PLANNING TO ADOPT THE BTN, THE USA AND CANADA ARE THE ONLY UNCLASSIFIED

UNCLASSIFIED

PAGE 04 EC BRU 04369 01 OF 02 161120Z

MEMBER COUNTRIES OF THE UNITED NATIONS OF ANY SIGNIFICANCE IN INTERNATIONAL TRADE WHICH HAVE NOT SO FAR ADOPTED THE BTN AS THE BASIS FOR THEIR CUSTOMS TARIFFS. GIVEN THAT WIDE ACCEPTANCE BY CUSTOMS ADMINISTRATIONS IS A 'SINE QUA NON' FOR THE SUCESS OF AN INTERNATIONAL COMMODITY CODE AND THAT THE BTN HAS BECOME AN INTEGRAL PART OF THE TARIFF LEGILATION OF THE MAJORITY OF SIGNIFICANT TRADING COUNTRIES, THE COMMISSION SEES NO REALISTIC WAY OF DEVELOPING AN INTERNATIONAL COMMODITY CODE EXCEPT FROM THE BTN.

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PAGE 01 EC BRU 04369 02 OF 02 161145Z

47

ACTION EUR-12

INFO OCT-01 ISO-00 AID-05 CEA-01 CIAE-00 COME-00 EB-07

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UNCLAS SECTION 2 OF 2 EC BRUSSELS 4369

5. THERE IS A CLOSE LINK BETWEEN THE DEVELOPMENT BY THE CUSTOMS COOPERATION COUNCIL OF THE 'HARMONIZED SYSTEM' AND THE MULTILATERAL TRADE NEGOTIATIONS (MTN) WHICH ARE CURRENTLY TAKING PLACE IN GENEVA. IT IS GENERALLY AGREED THAT NON-TARIFF BARRIERS WILL BE AN IMPORTANT ELEMENT IN THE MTN, AND TARIFF NOMENCLATURES HAVE ALREADY BEEN IDENTIFIED AS A MAJOR AREA FOR DISCUSSION IN THIS CONTEXT. GIVEN THE NUMBER OF COUNTRIES ALREADY USING THE BTN THERE WILL CLEARLY BE VERY STRONG PRESSURE ON THOSE IMPORTANT TRADING COUNTRIES WHICH DO NOT CURRENTLY USE IT TO ADOPT THE BTN AS THE BASIS FOR THEIR CUSTOMS TARIFFS. IT IS UNDERSTOOD THAT FOR THE TIME BEING THE UNITED STATES OF AMERICA IS NOT IN A POSITION TO ADOPT THE BTN BECAUSE, AFTER CONSIDERABLE DETAILED ANALYSIS AND DISCUSSION BETWEEN GOVERNMENTAL AND TRADE INTERESTS, IT HAS COME TO THE CONCLUSION THAT THE BTN IS IN MANY CASES NOT ADAPTED TO CURRENT INDUSTRIAL AND COMMERCIAL REQUIREMENTS AND IS, AS A CONSEQUENCE, IN NEED OF MODERNIZATION.

6. THE COMMISSION SHARES THE DESIRE OF THE UNITED STATES OF AMERICA TO SEE THE BTN MODERNIZED IN CONFORMITY WITH THE LATEST INDUSTRIAL AND COMMERCIAL REQUIREMENTS. THIS NEED HAS, MORE-OVER, BEEN RECOGNIZED BY THE CUSTOMS COOPERATION COUNCIL AND IT HAS BEEN AGREED THAT PROPOSALS FOR MODERNIZATION MADE BY

UNCLASSIFIED

UNCLASSIFIED

PAGE 02 EC BRU 04369 02 OF 02 161145Z

THE HARMONIZED SYSTEMS COMMITTEE WILL BE SYMPATHETICALLY CONSIDERED. THE COMMISSION IS PREPARED TO GIVE ITS FULL SUPPORT TO REALISTIC AND JUSTIFIED PROPOSALS TO AMEND THE BTN WHICH THE GOVERNMENT OF THE UNITED STATES OF AMERICA MAY WISH TO SUBMIT TO THE HARMONIZED SYSTEM COMMITTEE.

7. THE COMMISSION AND THE SECRETARIAT OF THE CUSTOMS COOPERATION COUNCIL HAVE ON NUMEROUS OCCASIONS OVER THE PAST 18 MONTHS EXPRESSED TO REPRESENTATIVES OF THE UNITED STATES OF AMERICA THEIR WILLINGNESS TO CONSIDER SYMPATHETICALLY REASONED SUGGESTIONS TO MODERNIZE THE BTN AND THEY HAVE BEEN EAGERLY AWAITING THE SUBMISSION OF CONCRETE PROPOSALS. UNFORTUNATELY THE UNITED STATES OF AMERICA HAS NOT SO FAR SEEN FIT TO PRESENT SUCH PROPOSALS.

8. THE DRAFT REPORT OF THE INTERNATIONAL TRADE COMMISSION MAKES AN OVERWHELMING CASE FOR THE DEVELOPMENT OF AN INTERNATIONAL COMMODITY CODE. GIVEN THE RANGE OF INTERESTS TO BE CATERED FOR AND THE COMPLEXITY OF THE PROBLEMS INVOLVED IT IS CLEAR THAT WHATEVER BASIS WERE ADOPTED (SIC) THE RESULTS WOULD NOT BE FULLY SATISFACTORY FOR ALL POTENTIAL USERS. THE UNITED STATES OF AMERICA SHARED THE DECISION IN 1970 TO DEVELOP SUCH A CODE FROM THE BTN AND HAS SUBSEQUENTLY BEEN ONE OF THE MOST ACTIVE PARTICIPANTS IN THE WORK IN THE CUSTOMS COOPERATION COUNCIL, FIRSTLY OF THE COMMODITY CODING STUDY GROUP AND THEN OF ITS SUCCESSOR THE HARMONIZED SYSTEMS COMMITTEE. FURTHERMORE, THE BTN-BASED HARMONIZED SYSTEM IS BEING DEVELOPED IN FULL CONFORMITY WITH THE BASIC CONCEPTS AND PRINCIPLES SET OUT IN SECTION C OF THE US INTERNATIONAL TRADE COMMISSION'S DRAFT REPORT.

9. THE PROGRESS OF THE HARMONIZED SYSTEM COMMITTEE HAS BEEN SLOWER THAN HAD BEEN HOPED MAINLY BECAUSE OF THE EMPHASIS WHICH HAS BEEN PLACED UPON THE DEVELOPMENT OF THE SO-CALLED 'DESCRIPTOR LIST.' IT IS THE OPINION OF THE COMMISSION THAT THE TASK OF THE COMMITTEE COULD BE CONSIDERABLY SIMPLIFIED AND ITS PROGRESS ACCELERATED IF THE UNITED STATES OF AMERICA WOULD AGREE THAT ABSOLUTE PRIORITY SHOULD BE GIVEN TO THE DEVELOPMENT OF THE SO-CALLED 'STRUCTURED NOMENCLATURE' AND THAT THE DETAILED DESCRIPTOR LIST SHOULD BE DEVELOPED AFTER THE COMPLETION OF THE PRIORITY TASK.

UNCLASSIFIED

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PAGE 03 EC BRU 04369 02 OF 02 161145Z

10. THE COMMISSION FIRMLY BELIEVES THAT THE OBJECTIVE OF DEVELOPING A FLEXIBLE INTERNATIONAL COMMODITY CODE OF THE KIND ENVISAGED IN THE DRAFT REPORT CAN ONLY BE ACHIEVED IN PRACTICE THROUGH THE COMPLETION OF THE HARMONIZED SYSTEM CURRENTLY UNDER DEVELOPMENT IN THE CUSTOMS COOPERATION COUNCIL. THE COMMISSION THEREFORE URGES THE GOVERNMENT OF

THE UNITED STATES OF AMERICA TO CONTINUE ITS POSITIVE AND ACTIVE PARTICIPATION IN THE WORK OF THE HARMONIZED SYSTEM COMMITTEE AND TO THIS END TO AGREE ON THE FOLLOWING BASIC POLICY GUIDELINES:

THE EARLY DEVELOPMENT OF AN INTERNATIONAL COMMODITY CODE IS OF MAJOR IMPORTANCE TO INTERNATIONAL TRADE AND SHOULD BE PURSUED WITH THE UTMOST VIGOR.

ALTHOUGH THE BTN MAY NOT BE A PERFECT BASIS FOR THE DEVELOPMENT OF SUCH A CODE IT IS, IN PRACTICE, THE ONLY REALISTIC BASIS GIVEN ITS WIDE INTERNATIONAL USE.

THE BTN IS IN NEED OF MODERNIZATION AND THAT REASONED PROPOSALS FOR THE MODIFICATION OF SPECIFIED HEADINGS SHOULD BE PRESENTED TO THE HARMONIZED SYSTEM COMMITTEE WITHOUT FURTHER DELAY.

PRIORITY SHOULD BE GIVEN BY THE HARMONIZED SYSTEM COMMITTEE TO THE DEVELOPMENT OF THE STRUCTURED NOMENCLATURE.

11. THE COMMISSION HOPES THAT THE GOVERNMENT OF THE UNITED STATES WILL BE ABLE TO AGREE TO THE BASIC POLICY GUIDELINES SET OUT ABOVE AND THAT ANY REPORT WHICH MAY FINALLY BE SUBMITTED TO CONGRESS AND THE PRESIDENT WILL TAKE FULL ACCOUNT OF THESE GUIDELINES AND OF OTHER RELEVANT ARGUMENTS DEVELOPED IN THIS AIDE MEMOIRE. BRUSSELS, 14 MAY 1975. END TEXT.

12. WE TOLD PHAN VAN PHI AND CHUMAS THAT WE WOULD FORWARD THE AIDE MEMOIRE TO THE DEPARTMENT WITH A REQUEST THAT IT BE RE-TRANSMITTED TO THE ITC. HOWEVER, WE NOTED THAT THE ITC IS AN INDEPENDENT AGENCY APART FROM THE EXECUTIVE BRANCH OF THE US
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UNCLASSIFIED

PAGE 04 EC BRU 04369 02 OF 02 161145Z

GOVERNMENT AND THAT ITS FINAL REPORT TO THE PRESIDENT AND TO THE CONGRESS WOULD BE ITS OWN. SUBSEQUENTLY, THE US GOVERNMENT WOULD OF COURSE MAKE ITS OWN DECISIONS IN THESE MATTERS AND PROPOSE OR NOT PROPOSE FURTHER ACTIONS AS IT DETERMINED NECESSARY. THEY RECOGNIZED THE DIFFERENCE BUT SAID THAT IT WAS MOST IMPORTANT FOR THE SUCCESS OF AN INTERNATIONAL COMMODITY NOMENCLATURE THAT THE ITC REPORT BUILD ON THE INTERNATIONAL WORK ALREADY GOING ON. GREENWLAD

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